

**ADOPTED NOVEMBER 4, 2008****PROPOSED BY INITIATIVE PETITION**

**PROPOSITION A.** — (Proposed by Initiative Petition) Shall Missouri law be amended to: repeal the current individual maximum loss limit for gambling;

- prohibit any future loss limits;
- require identification to enter the gambling area only if necessary to establish that an individual is at least 21 years old;
- restrict the number of casinos to those already built or being built;
- increase the casino gambling tax from 20% to 21%;
- create a new specific education fund from gambling tax proceeds generated as a result of this measure called the “Schools First Elementary and Secondary Education Improvement Fund”; and
- require annual audits of this new fund?

State governmental entities will receive an estimated \$105.1 to \$130.0 million annually for elementary and secondary education, and \$5.0 to \$7.0 million annually for higher education, early childhood development, veterans, and other programs. Local governmental entities receiving gambling boat tax and fee revenues will receive an estimated \$18.1 to \$19.0 million annually

**SECTION**

- A. Enacting clause.
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  - 2. Fund created — state treasurer’s duties.
  - 3. Licensing of additional excursion gambling boats restricted, when.
- 160.534. Excursion gambling boat proceeds, transfer to certain education funds.
- 163.011. Definitions — method of calculating state aid.
- 313.805. Powers of commission — boats to cruise, exceptions.
- 313.817. Wagering, conduct of, requirements — minors not allowed to wager — -dealers must be twenty-one years of age — invasion of privacy protections — presentation of false identification a misdemeanor.
- 313.822. Adjusted gross receipts, tax on, rate, collection procedures — portion to home dock city or county, procedure — gaming proceeds for education fund, created, purpose — audit of certain education funds.

*Be it enacted by the people of the State of Missouri:*

**SECTION A. ENACTING CLAUSE.** — *Sections 160.534, 163.011, 313.805, 313.817 and 313.822, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 1,2,3, 160.534, 163.011, 313.805, 313.817, and 313.822, to read as follows:*

**SECTION 1. CITATION OF LAW.** — This act shall be known and may be cited as “The Schools First Elementary and Secondary Education Funding Initiative.”

**SECTION 2. FUND CREATED — STATE TREASURER’S DUTIES.** — There is hereby created in the state treasury the "Schools First Elementary and Secondary Education Improvement Fund," which shall consist of taxes on excursion gambling boat proceeds, as provided in section 160.534.2, RSMo, to be used solely for the purpose of increasing funding for elementary and secondary education. The schools first elementary and secondary education improvement fund shall be state revenues collected from gaming activities for purposes of Article III, Section 39(d) of the Constitution. Moneys in the schools first elementary and secondary education improvement fund shall be kept separate from the general revenue fund as well as any other

funds or accounts in the state treasury. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

**SECTION 3. LICENSING OF ADDITIONAL EXCURSION GAMBLING BOATS RESTRICTED, WHEN.** — The Missouri Gaming Commission shall not authorize additional excursion gambling boat licenses after the effective date of this act that exceed the number of licenses which have been approved for excursion gambling boats already built and those under construction. For purposes of this section, "under construction" means an excursion gambling boat that has a license application approved by the Commission for priority investigation and is under construction at the approved site prior to the effective date of this act. If one or more excursion gambling boat licenses issued under chapter 313 is forfeited, surrendered, revoked, not renewed, or expires then the Commission may issue a new license to replace the license that was forfeited, surrendered, revoked, not renewed, or expired.

**160.534. EXCURSION GAMBLING BOAT PROCEEDS, TRANSFER TO CERTAIN EDUCATION FUNDS.** — 1. For fiscal year 1996 and each subsequent fiscal year, any amount of the excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the school district bond fund as provided in section 164.303, RSMo, shall be transferred to the classroom trust fund. Such moneys shall be distributed in the manner provided in section 163.043, RSMo.

2. Starting in fiscal year 2009, and for each subsequent fiscal year, all excursion gambling boat proceeds deposited in the gaming proceeds for education fund in excess of the amount transferred to the classroom trust fund for fiscal year 2008 plus the amount appropriated to the school district bond fund in accordance with section 164.303, RSMo, shall be deposited into the schools first elementary and secondary education improvement fund.

3. The amounts deposited in the schools first elementary and secondary education improvement fund pursuant to this section shall constitute new and additional funding for elementary and secondary education and shall not be used to replace existing funding provided for elementary and secondary education.

**163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID.** — As used in this chapter unless the context requires otherwise:

(1) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011, RSMo;

(2) "Average daily attendance", the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours, except for physical education hours that do not count as credit toward graduation for students in grades nine, ten, eleven, and twelve, attended by all summer school pupils by the number of hours required in section 160.011, RSMo, in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district

or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(3) "Current operating expenditures":

(a) For the fiscal year 2007 calculation, "current operating expenditures" shall be calculated using data from fiscal year 2004 and shall be calculated as all expenditures for instruction and support services except capital outlay and debt service expenditures minus the revenue from federal categorical sources; food service; student activities; categorical payments for transportation costs pursuant to section 163.161; state reimbursements for early childhood special education; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo; and payments from other districts;

(b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures shall be the amount in paragraph (a) plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per recalculation, of the state revenue received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target;

(4) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(5) "Dollar-value modifier", an index of the relative purchasing power of a dollar, calculated as one plus fifteen percent of the difference of the regional wage ratio minus one, provided that the dollar value modifier shall not be applied at a rate less than 1.0;

(a) "County wage per job", the total county wage and salary disbursements divided by the total county wage and salary employment for each county and the city of St. Louis as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year;

(b) "Regional wage per job":

a. The total Missouri wage and salary disbursements of the metropolitan area as defined by the Office of Management and Budget divided by the total Missouri metropolitan wage and salary employment for the metropolitan area for the county signified in the school district number or the city of St. Louis, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year and recalculated upon every decennial census to incorporate counties that are newly added to the description of metropolitan areas; or if no such metropolitan area is established, then:

b. The total Missouri wage and salary disbursements of the micropolitan area as defined by the Office of Management and Budget divided by the total Missouri micropolitan wage and salary employment for the micropolitan area for the county signified in the school district number, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year, if a micropolitan area for such county has been established and recalculated upon every decennial census to incorporate counties that are newly added to the description of micropolitan areas; or

c. If a county is not part of a metropolitan or micropolitan area as established by the Office of Management and Budget, then the county wage per job, as defined in paragraph (a) of this subdivision, shall be used for the school district, as signified by the school district number;

(c) "Regional wage ratio", the ratio of the regional wage per job divided by the state median wage per job;

(d) "State median wage per job", the fifty-eighth highest county wage per job;

(6) "Free and reduced lunch pupil count", the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations;

(7) "Free and reduced lunch threshold" shall be calculated by dividing the total free and reduced lunch pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(8) "Limited English proficiency pupil count", the number in the preceding school year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school or secondary school who were not born in the United States or whose native language is a language other than English or are Native American or Alaskan native, or a native resident of the outlying areas, and come from an environment where a language other than English has had a significant impact on such individuals' level of English language proficiency, or are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and have difficulties in speaking, reading, writing, or understanding the English language sufficient to deny such individuals the ability to meet the state's proficient level of achievement on state assessments described in Public Law 107-10, the ability to achieve successfully in classrooms where the language of instruction is English, or the opportunity to participate fully in society;

(9) "Limited English proficiency threshold" shall be calculated by dividing the total limited English proficiency pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(10) "Local effort":

(a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized assessed valuation of the property of a school district in calendar year 2004 divided by one hundred and multiplied by the performance levy less the percentage retained by the county assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts from state-assessed railroad and utility tax, one hundred percent of the amount received for school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts received for school purposes from federal properties under sections 12.070 and 12.080, RSMo, except when such amounts are used in the calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues received for school purposes from the school district trust fund under section 163.087, and one hundred percent of any local earnings or income taxes received by the district for school purposes. Under this paragraph, for a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special school district;

(b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount calculated under paragraph (a) of this subdivision plus any increase in the amount received for school purposes from fines. If a district's assessed valuation has decreased subsequent to the calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be calculated using the district's current assessed valuation in lieu of the assessed valuation utilized in calculation outlined in paragraph (a) of this subdivision;

(11) "Membership" shall be the average of:

(a) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in

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September of the previous year and who were in attendance one day or more during the preceding ten school days; and

(b) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(12) "Operating levy for school purposes", the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, in the payment year, not including any equalized operating levy for school purposes levied by a special school district in which the district is located;

(13) "Performance district", any district that has met all performance standards and indicators as established by the department of elementary and secondary education for purposes of accreditation under section 161.092, RSMo, and as reported on the final annual performance report for that district each year;

(14) "Performance levy", three dollars and forty-three cents;

(15) "School purposes" pertains to teachers' and incidental funds;

(16) "Special education pupil count", the number of public school students with a current individualized education program and receiving services from the resident district as of December first of the preceding school year, except for special education services provided through a school district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, in which case the sum of the students in each district within the county exceeding the special education threshold of each respective district within the county shall be counted within the special district and not in the district of residence for purposes of distributing the state aid derived from the special education pupil count;

(17) "Special education threshold" shall be calculated by dividing the total special education pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(18) "State adequacy target", the sum of the current operating expenditures of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, divided by the total average daily attendance of all included performance districts plus the total amount of funds placed in the schools first elementary and secondary education improvement fund in the preceding fiscal year divided by the total average daily attendance of all school districts for the preceding fiscal year. The department of elementary and secondary education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years using the most current available data; provided that the state adequacy target shall be recalculated every year to reflect the per pupil amount of funds placed in the schools first elementary and secondary education improvement fund in the preceding fiscal year. The recalculation shall never result in a decrease from the previous state adequacy target amount. Should a recalculation result in an increase in the state adequacy target amount, fifty percent of that increase shall be included in the state adequacy target amount in the year of recalculation, and fifty percent of that increase

shall be included in the state adequacy target amount in the subsequent year. The state adequacy target may be adjusted to accommodate available appropriations;

(19) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri;

(20) "Weighted average daily attendance", the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, and plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, weighted average daily attendance shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, shall use any special education pupil count in calculating their weighted average daily attendance.

**313.805. POWERS OF COMMISSION — BOATS TO CRUISE, EXCEPTIONS.** — The commission shall have full jurisdiction over and shall supervise all gambling operations governed by sections 313.800 to 313.850. The commission shall have the following powers and shall promulgate rules and regulations to implement sections 313.800 to 313.850:

(1) To investigate applicants and determine the priority and eligibility of applicants for a license and to select among competing applicants for a license the applicant which best serves the interests of the citizens of Missouri;

(2) To license the operators of excursion gambling boats and operators of gambling games within such boats, to identify occupations within the excursion gambling boat operations which require licensing, and adopt standards for licensing the occupations including establishing fees for the occupational licenses and to license suppliers;

(3) To adopt standards under which all excursion gambling boat operations shall be held and standards for the facilities within which the gambling operations are to be held. Notwithstanding the provisions of chapter 311, RSMo, to the contrary, the commission may authorize the operation of gambling games on an excursion gambling boat which is also licensed to sell or serve alcoholic beverages, wine, or beer. The commission shall regulate the wagering structure for gambling excursions [including providing a maximum loss of five hundred dollars per individual player per gambling excursion], provided that the commission shall not establish any regulations or policies that limit the amount of wagers, losses, or buy in amounts.

(4) To enter the premises of excursion gambling boats, facilities, or other places of business of a licensee within this state to determine compliance with sections 313.800 to 313.850;

(5) To investigate alleged violations of sections 313.800 to 313.850 or the commission rules, orders, or final decisions;

(6) To assess any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the commission up to three times the highest daily amount of gross receipts derived from wagering on the gambling games, whether unauthorized or authorized, conducted during the previous twelve months as well as confiscation and forfeiture of all gambling game equipment used in the conduct of

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unauthorized gambling games. Forfeitures pursuant to this section shall be enforced as provided in sections 513.600 to 513.645, RSMo;

(7) To require a licensee, an employee of a licensee or holder of an occupational license to remove a person violating a provision of sections 313.800 to 313.850 or the commission rules, orders, or final orders, or other person deemed to be undesirable from the excursion gambling boat or adjacent facilities;

(8) To require the removal from the premises of a licensee, an employee of a licensee, or a holder of an occupational license for a violation of sections 313.800 to 313.850 or a commission rule or engaging in a fraudulent practice;

(9) To require all licensees to file all financial reports required by rules and regulations of the commission;

(10) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and other pertinent documents, and to administer oaths and affirmations to the witnesses, when, in the judgment of the commission, it is necessary to enforce sections 313.800 to 313.850 or the commission rules;

(11) To keep accurate and complete records of its proceedings and to certify the records as may be appropriate;

(12) To ensure that the gambling games are conducted fairly. No gambling device shall be set to pay out less than eighty percent of all wagers;

(13) To require all licensees of gambling game operations to use a cashless wagering system whereby all players' money is converted to physical or electronic tokens, electronic cards, or chips which only can be used for wagering on the excursion gambling boat;

(14) To require excursion gambling boat licensees to develop a system, approved by the commission, that allows patrons the option to prohibit the excursion gambling boat licensee from using identifying information for marketing purposes. The provisions of this subdivision shall apply only to patrons giving identifying information for the first time. Such system shall be submitted to the commission by October 1, 2000, and approved by the commission by January 1, 2001. The excursion gambling boat licensee shall use identifying information obtained from patrons who have elected to have marketing blocked under the provisions of this section only for the purposes of enforcing the requirements contained in sections 313.800 to 313.850. This section shall not prohibit the commission from accessing identifying information for the purposes of enforcing section 313.004 and sections 313.800 to 313.850;

(15) To determine which of the authorized gambling games will be permitted on any licensed excursion gambling boat;

(16) Excursion gambling boats shall cruise, unless the commission finds that the best interest of Missouri and the safety of the public indicate the need for continuous docking of the excursion gambling boat in any city or county authorized pursuant to subsection 10 of section 313.812. The commission shall base its decision to allow continuously docked excursion gambling boats on any of the following criteria: the docking location or the excursion cruise could cause danger to the boat's passengers, violate federal law or the law of another state, or cause disruption of interstate commerce or possible interference with railway or barge transportation. In addition, the commission shall consider economic feasibility or impact that would benefit land-based development and permanent job creation. The commission shall not discriminate among applicants for continuous-docking excursion gambling that are similarly situated with respect to the criteria set forth in this section;

(17) The commission shall render a finding concerning the possibility of continuous docking, as described in subdivision (15) of this section, within thirty days after a hearing on any request from an applicant or licensee. Such hearing may be held prior to any final action on licensing to assist an applicant and any city or county in the finalizing of their economic development plan;

(18) To require any applicant for a license or renewal of a license to operate an excursion gambling boat to provide an affirmative action plan which has as its goal the use of best efforts to achieve maximum employment of African-Americans and other minorities and maximum

participation in the procurement of contractual purchases of goods and services. This provision shall be administered in accordance with all federal and state employment laws, including Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991. At license renewal, the licensee will report on the effectiveness of the plan. The commission shall include the licensee's reported information in its annual report to the joint committee on gaming and wagering;

(19) To take any other action as may be reasonable or appropriate to enforce sections 313.800 to 313.850 and the commission rules.

**313.817. WAGERING, CONDUCT OF, REQUIREMENTS — MINORS NOT ALLOWED TO WAGER — DEALERS MUST BE TWENTY-ONE YEARS OF AGE — INVASION OF PRIVACY PROTECTIONS — PRESENTATION OF FALSE IDENTIFICATION A MISDEMEANOR. —** 1. Except as permitted in this section, the licensee licensed to operate gambling games shall permit no form of wagering on gambling games.

2. The licensee may receive wagers only from a person present on a licensed excursion gambling boat.

3. Wagering shall not be conducted with money or other negotiable currency. The licensee shall exchange the money of each wagerer for electronic or physical tokens, chips, or other forms of credit to be wagered on the gambling games. The licensee shall exchange the tokens, chips, or other forms of wagering credit for money at the request of the wagerer.

4. A person under twenty-one years of age shall not make a wager on an excursion gambling boat and shall not be allowed in the area of the excursion boat where gambling is being conducted; provided that employees of the licensed operator of the excursion gambling boat who have attained eighteen years of age shall be permitted in the area in which gambling is being conducted when performing employment-related duties, except that no one under twenty-one years of age may be employed as a dealer or accept a wager on an excursion gambling boat. The governing body of a home dock city or county may restrict the age of entrance onto an excursion gambling boat by passage of a local ordinance.

5. In order to help protect patrons from invasion of privacy and the possibility of identity theft, patrons shall not be required to provide fingerprints, retinal scans, biometric forms of identification, any type of patron tracking cards, or other types of identification prior to being permitted to enter the area where gambling is being conducted on an excursion gambling boat or to make a wager, except that, for purposes of establishing that a patron is at least twenty-one years of age as provided in subsection 4 above, a licensee operating an excursion gambling boat shall be authorized to request such patron to provide a valid state or federal photo identification or a valid passport. This section shall not prohibit enforcement of identification requirements that are required by federal law. This section shall not prohibit enforcement of any Missouri statute requiring identification of patrons for reasons other than being permitted to enter the area of an excursion gambling boat where gambling is being conducted or to make a wager.

6. A licensee shall only allow wagering and conduct gambling games at the times allowed by the commission.

[6.] 7. It shall be unlawful for a person to present false identification to a licensee or a gaming agent in order to gain entrance to an excursion gambling boat, cash a check or verify that such person is legally entitled to be present on the excursion gambling boat. Any person who violates the provisions of this subsection shall be guilty of a class B misdemeanor for the first offense and a class A misdemeanor for second and subsequent offenses.

**313.822. ADJUSTED GROSS RECEIPTS, TAX ON, RATE, COLLECTION PROCEDURES — PORTION TO HOME DOCK CITY OR COUNTY, PROCEDURE — GAMING PROCEEDS FOR EDUCATION FUND, CREATED, PURPOSE — AUDIT OF CERTAIN EDUCATION FUNDS. —** A tax is imposed on the adjusted gross receipts received from gambling games authorized pursuant to sections 313.800 to 313.850 at the rate of [twenty] twenty-one percent. The taxes imposed by



this section shall be returned to the commission in accordance with the commission's rules and regulations who shall transfer such taxes to the director of revenue. All checks and drafts remitted for payment of these taxes and fees shall be made payable to the director of revenue. If the commission is not satisfied with the return or payment made by any licensee, it is hereby authorized and empowered to make an assessment of the amount due based upon any information within its possession or that shall come into its possession. Any licensee against whom an assessment is made by the commission may petition for a reassessment. The request for reassessment shall be made within twenty days from the date the assessment was mailed or delivered to the licensee, whichever is earlier. Whereupon the commission shall give notice of a hearing for reassessment and fix the date upon which the hearing shall be held. The assessment shall become final if a request for reassessment is not received by the commission within the twenty days. Except as provided in this section, on and after April 29, 1993, all functions incident to the administration, collection, enforcement, and operation of the tax imposed by sections 144.010 to 144.525, RSMo, shall be applicable to the taxes and fees imposed by this section.

(1) Each excursion gambling boat shall designate a city or county as its home dock. The home dock city or county may enter into agreements with other cities or counties authorized pursuant to subsection 10 of section 313.812 to share revenue obtained pursuant to this section. The home dock city or county shall receive ten percent of the adjusted gross receipts tax collections, as levied pursuant to this section, for use in providing services necessary for the safety of the public visiting an excursion gambling boat. Such home dock city or county shall annually submit to the commission a shared revenue agreement with any other city or county. All moneys owed the home dock city or county shall be deposited and distributed to such city or county in accordance with rules and regulations of the commission. All revenues provided for in this section to be transferred to the governing body of any city not within a county and any city with a population of over three hundred fifty thousand inhabitants shall not be considered state funds and shall be deposited in such city's general revenue fund to be expended as provided for in this section.

(2) The remaining amount of the adjusted gross receipts tax shall be deposited in the state treasury to the credit of the "Gaming Proceeds for Education Fund" which is hereby created in the state treasury. Moneys deposited in this fund shall be kept separate from the general revenue fund as well as any other funds or accounts in the state treasury, shall be used solely for education pursuant to the Missouri Constitution and shall be considered the proceeds of excursion boat gambling and state funds pursuant to article IV, section 15 of the Missouri Constitution. All interest received on the gaming proceeds for education fund shall be credited to the gaming proceeds for education fund. Appropriation of the moneys deposited into the gaming proceeds for education fund shall be pursuant to state law.

(3) The state auditor shall perform an annual audit of the gaming proceeds for education fund and the schools first elementary and secondary education improvement fund, which shall include the evaluation of whether appropriations for elementary and secondary education have increased and are being used as intended by this act. The state auditor shall make copies of each audit available to the public and to the general assembly.

EXPLANATION: Matter enclosed in brackets [thus] in this law is not enacted and is intended to be omitted in the law; new matter enacted and intended to be included in the law is shown underlined thus.

Adopted November 4, 2008. (For — 1,578,674; Against — 1,231,892)  
Effective November 4, 2008.

**PROPOSITION B.** — (Proposed by Initiative Petition) Shall Missouri law be amended to enable the elderly and Missourians with disabilities to continue living independently in their homes by creating the Missouri Quality Homecare Council to ensure the availability of quality home care services under the Medicaid program by recruiting, training, and stabilizing the home care workforce?

The exact cost of this proposal to state governmental entities is unknown, but is estimated to exceed \$510,560 annually. Additional costs for training are possible. Matching federal funds, if available, could reduce state costs. It is estimated there would be no costs or savings to local governmental entities.

SECTION

- A. Enacting clause.
  1. Title.
  2. Findings and purpose.
  3. Council created, expenses, members, terms, removal.
  4. Powers and duties of the council.
  5. Consumer rights and employment relations.
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  7. Federal approval and funding.
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*Be it enacted by the people of the State of Missouri:*

**SECTION A. ENACTING CLAUSE.** — *Eight new sections are enacted, to be known as sections 1, 2, 3, 4, 5, 6, 7 and 8 to read as follows:*

**SECTION 1. TITLE.** — Title.

This Act shall be known as and may be cited as “The Quality Home Care Act.”

**SECTION 2. FINDINGS AND PURPOSE.** — Findings and purposes.

The people of the state of Missouri find as follows:

1. Thousands of Missouri senior citizens and people with disabilities continue to live independently in their own homes and avoid placement in institutions such as nursing homes only as the result of the availability of qualified personal care attendants who assist them with the activities of daily living.

2. Many Missouri senior citizens and people with disabilities who could not otherwise afford personal care assistance services in their own homes receive the services with assistance provided by the State and federal governments under the Missouri Consumer Directed Services Program.

3. The United States Supreme Court has mandated that states provide services to persons with disabilities “in community settings rather than in institutions” when remaining in the community is appropriate, consistent with the wishes of the disabled person, and can be reasonably accommodated.

4. In-home care is not only the choice of most senior citizens and people with disabilities, it is less costly than institutional care such as that provided in nursing homes and thus saves Missouri taxpayers significant amounts of money.

5. The Consumer Directed Services Program permits the consumers of these highly intimate and personal services to hire, terminate and supervise the individual providing the services, but it does not currently give consumers any role in setting wage rates for personal care attendants.

6. Personal care attendants generally receive low wages, minimal or no benefits, little if any training, and have no meaningful input into their terms and conditions of employment and no

meaningful means of making suggestions for improvements in the Consumer Directed Services Program.

7. The continued availability of quality home care services is threatened by a looming shortage of qualified personal care attendants due to the aging population in the State as well as low wages, a lack of benefits, and high rates of occupational injury. These poor working conditions also contribute to high turnover among personal care attendants that impairs the continuity of care.

8. The safety of home care services is threatened by both the failure of existing safeguards to protect consumers from potentially abusive attendants and lengthy delays in processing background checks as recently documented by the State Auditor.

9. The continued availability of quality, safe home care services can be ensured through the creation of the Missouri Quality Homecare Council with authority to investigate the quality, safety and availability of home care services, recruit eligible personal care attendants, recommend qualifications for personal care attendants, improve the training of personal care attendants, establish a state-wide list of eligible personal care attendants, refer consumers to eligible personal care attendants, engage in collective bargaining with a representative of personal care attendants, and recommend changes in personal care attendants' wages and benefits to the General Assembly.

**SECTION 3. COUNCIL CREATED, EXPENSES, MEMBERS, TERMS, REMOVAL. — The Missouri Quality Homecare Council.**

1. Effective January 31, 2009, the Missouri Quality Homecare Council is hereby created to insure the availability and improve the quality of home care services by recruiting, training and stabilizing the personal care attendant work force. Expenses of the Council in carrying out its powers and duties shall be paid from any appropriations for that purpose by the General Assembly. The Council shall be assigned to the Department of Health and Senior Services with supervision by the Department extending only to budgeting and reporting as provided by subdivisions (4) and (5) of subsection 6 of section 1 of the Reorganization Act of 1974. Supervision by the Department shall not extend to matters relating to policies, regulatory functions or other matters specifically delegated to the Council by this Act and the Director of the Department or any employee of the Department, either directly or indirectly, shall not participate or interfere with the activities of the Council in any manner not specifically provided by law.

2. The Council shall consist of eleven members appointed by the Governor with the advice and consent of the Senate as follows:

(1) Six members shall be current or former recipients of personal care assistance services under the Consumer Directed Services Program, or its successor program(s). Two of the consumer members shall have received services for a period of at least one year, two shall have received services for a period of at least two years, and two shall have received services for a period of at least three years. In order to insure that at least one of the consumer members has personal knowledge of challenges rural consumers face, at least one of these members shall be a resident of a third class county.

(2) One member shall be a representative of the Missouri Department of Health and Senior Services, or its successor entity.

(3) Two members shall be representatives of Missouri Centers for Independent Living, or their successor entities.

(4) One member shall be a representative of the Governor's Council on Disabilities, or its successor entity.

(5) One member shall be a representative of the Governor's Advisory Council on Aging, or its successor entity.

3. Each member of the Council shall serve a term of three years, except the first eleven members who shall serve staggered terms as follows: three recipient members and the

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Department of Health and Senior Services member shall serve one year terms, two recipient members and one Centers for Independent Living member shall serve two year terms, and one recipient member, one Centers for Independent Living member, and the Council on Disabilities and Advisory Council on Aging members shall serve three year terms. The initial members of the Council shall be appointed by the Governor by March 1, 2009. If a vacancy occurs, the Governor will appoint a replacement for the remainder of the departing member's term. Commission members shall be eligible for reappointment but shall serve no more than two terms. In making appointments, the Governor shall consider nominations or recommendations from the agencies or groups represented on the Council. Members of the Council shall serve without compensation, but shall be reimbursed their actual and necessary expenses. The Governor may remove a Council member for good cause.

**SECTION 4. POWERS AND DUTIES OF THE COUNCIL.** — The powers and duties of the Council. The Council shall have the following powers and duties:

1. Assess the size, quality and stability of the homecare workforce in Missouri and the ability of the existing workforce to meet the growing and changing needs of both aging and disabled consumers.

2. Encourage eligible individuals to serve as personal care attendants.

3. Provide training on a voluntary basis, either directly or through contracts, in cooperation with vendors (as defined in section 6.5 below), for prospective and current personal care attendants.

4. Recommend minimum qualifications for personal care attendants to the Department of Health and Senior Services.

5. Establish and maintain a state-wide list of eligible, available personal care attendants, in cooperation with vendors, including attendants available to provide respite and replacement services. In order to facilitate the creation of such a list, all vendors shall provide the Council with the list of persons eligible to be a personal care attendant which vendors are required to maintain under RSMo 208.906.4 and 208.918.1(3). The Council shall insure that all personal care attendants placed on the state-wide list are registered with the family care safety registry as provided in RSMo 210.900 to 210.936 and are not listed on any of the background check lists in the family care safety registry, absent a good cause waiver obtained from the Department pursuant to RSMo 660.317. All consumers seeking personal care attendants, whether or not they are participants in the Consumer Directed Services Program, shall have access to the state-wide list.

6. Provide routine, emergency, respite, and replacement referrals of eligible and available personal care attendants to vendors and consumers.

7. In cooperation with the Missouri State Highway Patrol, the Department of Social Services' Children's Division, the Department of Mental Health, the Department of Health and Senior Services, and vendors and on an on-going basis, assess existing mechanisms for preventing abuse and neglect of consumers in the home care setting and recommend improvements to those agencies and the General Assembly. As part of this duty, members and employees of the Council shall have access to the Employee Disqualification List established in RSMo 660.315 and the Family Care Safety Registry. Members and employees of the Council shall report to the Department of Health and Senior Services when they have reasonable cause to believe that a consumer has been abused or neglected as defined in RSMo 660.250 subject to the same standards set forth in RSMo 208.912.

8. Recommend the wage rate or rates to be paid personal care attendants and any economic benefits to be received by personal care attendants to the General Assembly. The Department shall retain its existing authority to establish the Medicaid reimbursement rate for personal care assistance services under RSMo 208.903.2.

9. Establish other terms and conditions of employment of personal care attendants consistent with consumers' right to hire, fire, train, and supervise personal care attendants.

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10. Cooperate with the Department of Health and Senior Services and vendors to improve the provision of personal care assistance services.

11. In carrying out its powers and duties under this Act, the Council may:

(1) Make and execute contracts and all other instruments necessary or convenient for the performance of its duties or exercise of its powers;

(2) Issue rules under the Missouri Administrative Procedures Act, Chapter 536, RSMo, as necessary for the purposes and policies of this Act. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section, shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void;

(3) Establish offices, employ an Executive Director and such other staff as is necessary to carry out its functions and fix their compensation, retain contractors as necessary and prescribe their duties and power, incur expenses, and create such liabilities as are reasonable and proper for the administration of this act;

(4) Solicit and accept for use any grant of money, services or property from the federal government, the state, or any political subdivision or agency thereof, including federal matching funds under Title XIX of the federal Social Security Act, and do all things necessary to cooperate with the federal government, the State, or any political subdivision or agency thereof in making an application for any grant;

(5) Keep records and engage in research and the gathering of relevant statistics;

(6) Acquire, hold, or dispose of personal property or any interest therein, and contract for, lease, or otherwise provide facilities for the activities conducted under this measure;

(7) Sue and be sued in its own name;

(8) Delegate to the appropriate persons the power to execute contracts and other instruments on its behalf and delegate any of its powers and duties if consistent with the purposes of this act; and

(9) Do other acts necessary or convenient to execute the powers expressly granted to it.

**SECTION 5. CONSUMER RIGHTS AND EMPLOYMENT RELATIONS. — Consumer rights and employment relations.**

1. Consumers shall retain the right to hire, fire, supervise, and train personal care attendants.

2. Vendors shall continue to perform the functions provided in RSMo 208.900-208.930. In addition to having a philosophy that promotes the consumer's ability to live independently in the most integrated setting or the maximum community inclusion of persons with physical disabilities, as required by RSMo 208.918.1, vendors shall provide to consumers advocacy, independent living skills training, peer counseling, and information and referral services, as those terms are used in RSMo 178.656.3.

3. The Council shall be a public body as that term is used in RSMo 105.500 and personal care attendants shall be employees of the Council solely for purposes of RSMo 105.500 et seq.

4. The sole appropriate unit of personal care attendants, as that term is used in RSMo 105.500(1) shall be a state-wide unit. Personal care attendants who are related to or members of the family of the consumer to whom they provide services shall not for that reason be excluded from the unit. The State Board of Mediation shall conduct an election, by mail ballot, to determine whether an organization shall be designated the exclusive bargaining representative as defined in RSMo 105.500(2) for the state-wide unit of personal care attendants under RSMo 105.525 upon a showing that ten percent of the personal care attendants in said unit want to be represented by a representative. The Missouri Office of Administration shall represent the Council in any collective bargaining with a representative of personal care attendants. Upon

completion of bargaining, any agreements shall be reduced to writing and presented to the Council for adoption, modification or rejection in accordance with RSMo 105.520.

5. The State of Missouri and all vendors shall cooperate in the implementation of any agreements reached by the Council and any representative of personal care attendants, including making any payroll deductions authorized by the agreements which can lawfully be made pursuant to agreements entered into under RSMo 105.500 to 105.530 as currently construed by the Missouri Appellate Courts.

6. Personal care attendants shall not have the right to strike and breach of this prohibition will result in disqualification from participation in the Consumer Directed Services Program.

7. Personal care attendants shall not be considered employees of the State of Missouri or any vendor for any purpose.

**SECTION 6. DEFINITIONS. — Definitions.**

As used in this act:

1. Council means the Missouri Quality Homecare Council.

2. Department means the Missouri Department of Health and Senior Services.

3. Personal care attendant means a person, other than a consumer's spouse, providing consumer-directed personal care assistance services as defined in RSMo 208.900(2) and (5) under RSMo 208.900-208.927, similar consumer-directed personal care assistance services under RSMo 208.930, and similar consumer-directed personal care assistance services through a program operated pursuant to a waiver obtained under section 1915(c) of the federal Social Security Act or similar consumer-directed services under the successor to any of said programs.

4. Consumer means a person receiving personal care assistance services from a personal care attendant as defined in section 6.3.

5. Vendor is defined in RSMo 208.900(10) and in Section 5.2.

**SECTION 7. FEDERAL APPROVAL AND FUNDING. — Federal approval and funding.**

The Council and the State of Missouri shall take all actions reasonably necessary to obtain any approval from the United States needed to implement any part of this act and to insure continued federal funding of any program governed by this act.

**SECTION 8. SEVERABILITY CLAUSE. — Severability.**

If any section, subsection, subdivision, paragraph, sentence, or clause of this act is held to be invalid or unconstitutional, such decision shall not affect any remaining portion, section, or part thereof which can be given effect without the invalid provision.

EXPLANATION: New matter enacted and intended to be included in the law is shown underlined thus.

Adopted November 4, 2008. (For — 2,077,831; Against — 683,137)

Effective December 4, 2008.

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**PROPOSITION C. —** (Proposed by Initiative Petition) Shall Missouri law be amended to require investor-owned electric utilities to generate or purchase electricity from renewable energy sources such as solar, wind, biomass and hydropower with the renewable energy sources equaling at least 2% of retail sales by 2011 increasing incrementally to at least 15% by 2021, including at least 2% from solar energy; and restricting to no more than 1% any rate increase to consumers for this renewable energy?

The estimated direct cost to state governmental entities is \$395,183. It is estimated there are no direct costs or savings to local governmental entities. However, indirect costs may be

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incurred by state and local governmental entities if the proposal results in increased electricity retail rates.

SECTION

- Enacting clause.  
393.1020. Citation of law.  
393.1025. Definitions.  
393.1030. Electric utilities, portfolio requirements — tracking requirements — rulemaking authority — rebate offers — certification of electricity generated.  
393.1035. Objectives, electricity production to count toward, when — blending of fuels permitted, when.

Be it enacted by the people of the state of Missouri:

**ENACTING CLAUSE.** — Chapter 393, RSMo, is amended by repealing sections 393.1020, 393.1025, 393.1030, and 393.1035, and substituting therefor three new sections to be known as sections 393.1020, 393.1025 and 393.1030, to read as follows:

**393.1020. CITATION OF LAW.** — Sections 393.1025 to 393.1030 shall be known as the Renewable Energy Standard.

**393.1025. DEFINITIONS.** — As used in sections 393.1020 to 393.1030, the following terms mean:

1. "Commission", the public service commission;
2. "Department", the department of natural resources;
3. "Electric utility", any electrical corporation as defined by section 386.020;
4. "Renewable energy resources", electric energy produced from wind, solar thermal sources, photovoltaic cells and panels, dedicated crops grown for energy production, cellulosic agricultural residues, plant residues, methane from landfills or from wastewater treatment, clean and untreated wood such as pallets, hydropower (not including pumped storage) that does not require a new diversion or impoundment of water and that has a nameplate rating of 10 megawatts or less, fuel cells using hydrogen produced by one of the above-named renewable energy sources, and other sources of energy not including nuclear that become available after the effective date of this section and are certified as renewable by rule by the department; and
5. "Renewable energy credit" or "REC", a tradable certificate of proof that one megawatt-hour of electricity has been generated from renewable energy sources.

**393.1030. ELECTRIC UTILITIES, PORTFOLIO REQUIREMENTS — TRACKING REQUIREMENTS — RULEMAKING AUTHORITY — REBATE OFFERS — CERTIFICATION OF ELECTRICITY GENERATED.** — 1. The commission shall, in consultation with the department, prescribe by rule a portfolio requirement for all electric utilities to generate or purchase electricity generated from renewable energy resources. Such portfolio requirement shall provide that electricity from renewable energy resources shall constitute the following portions of each electric utility's sales:

- (a) No less than two percent for calendar years 2011 through 2013;
- (b) No less than five percent for calendar years 2014 through 2017;
- (c) No less than ten percent for calendar years 2018 through 2020; and
- (d) No less than fifteen percent in each calendar year beginning in 2021.

At least two percent of each portfolio requirement shall be derived from solar energy. The portfolio requirements shall apply to all power sold to Missouri consumers whether such power is self-generated or purchased from another source in or outside of this state. A utility may comply with the standard in whole or in part by purchasing RECs. Each kilowatt-hour of eligible energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of compliance.

2. The commission, in consultation with the department and within one year of the effective date of sections 393.1020 to 393.1030, shall select a program for tracking and verifying the trading of renewable energy credits. An unused credit may exist for up to three years from the date of its creation. A credit may be used only once to comply with this act and may not also be used to satisfy any similar non-federal requirement. An electric utility may not use a credit derived from a green pricing program. Certificates from net-metered sources shall initially be owned by the customer-generator. The commission, except where the department is specified, shall make whatever rules are necessary to enforce the Renewable Energy Standard. Such rules shall include:

(a) A maximum average retail rate increase of one percent determined by estimating and comparing the electric utility's cost of compliance with least-cost renewable generation and the cost of continuing to generate or purchase electricity from entirely non-renewable sources, taking into proper account future environmental regulatory risk including the risk of greenhouse gas regulation;

(b) Penalties of at least twice the average market value of renewable energy credits for the compliance period for failure to meet the targets of subsection 1. An electric utility will be excused if it proves to the commission that failure was due to events beyond its reasonable control that could not have been reasonably mitigated, or that the maximum average retail rate increase has been reached. Penalties shall not be recovered from customers. Amounts forfeited under this section shall be remitted to the department to purchase renewable energy credits needed for compliance. Any excess forfeited revenues shall be used by the department's energy center solely for renewable energy and energy efficiency projects;

(c) Provisions for an annual report to be filed by each electric utility in a format sufficient to document its progress in meeting the targets;

(d) Provision for recovery outside the context of a regular rate case of prudently incurred costs and the pass-through of benefits to customers of any savings achieved by an electrical corporation in meeting the requirements of this section.

3. Each electric utility shall make available to its retail customers a standard rebate offer of at least \$2.00 per installed watt for new or expanded solar electric systems sited on customers' premises, up to a maximum of 25 kilowatts per system, that become operational after 2009.

4. The department shall, in consultation with the commission, establish by rule a certification process for electricity generated from renewable resources and used to fulfill the requirements of subsection 1 of this section. Certification criteria for renewable energy generation shall be determined by factors that include fuel type, technology, and the environmental impacts of the generating facility. Renewable energy facilities shall not cause undue adverse air, water, or land use impacts, including impacts associated with the gathering of generation feedstocks. If any amount of fossil fuel is used with renewable energy resources, only the portion of electrical output attributable to renewable energy resources shall be used to fulfill the portfolio requirements.

The following sections shall be repealed:

**[393.1020. CITATION OF LAW — DEFINITIONS. —** 1. It is the general assembly's intent to encourage the development and utilization of technically feasible and economical renewable technologies, creating cleaner and more sustainable forms of energy for the residents of the state. It is for this reason that sections 393.1020 to 393.1040 shall be known as the "Green Power Initiative".

2. The definitions provided in section 386.020, RSMo, shall apply to sections 393.1020 to 393.1040. As used in sections 393.1020 to 393.1040, the following terms mean:

(1) "Department", the department of natural resources;

(2) "Eligible renewable energy technology", sources of energy that shall be considered renewable for purposes of this section shall include but not be limited to the following:

(a) Solar, including photovoltaic cells, concentrating solar power technologies, and low temperature solar collectors;

(b) Wind;



- (c) Hydroelectric, not including pump storage;
- (d) Hydrogen from renewable sources;
- (e) Biomass, any organic matter available on a renewable basis, including dedicated energy crops and trees, agricultural food and feed crops, agricultural crop wastes and residues, wood wastes and residues, animal waste, aquatic plants, biogas from landfills or wastewater treatment plants; and
- (f) Other renewable energy sources defined by rule by the commission after consultation with the department;
- (3) "Energy efficiency", verifiable reductions in energy consumption, or verifiable reductions in the rate of energy consumption growth, as defined by rule by the commission after consultation with the department, as a result of measures implemented by electrical corporations and electricity consumers which may include, but not be limited to, pricing signals, electronic controls, education, information, infrastructure improvements, and the use of high efficiency equipment and lighting;
- (4) "Total retail electric sales", the kilowatt-hours of electricity delivered in a year by an electrical corporation to its Missouri retail customers.

**393.1025. ELECTRICAL CORPORATIONS, DUTIES REGARDING TECHNOLOGY—COMMISSION TO ADOPT RULES.**

— 1. Each electrical corporation shall make a good faith effort to generate or procure sufficient electricity generated by an eligible renewable energy technology, and support energy efficiency measures, so that by 2012, four percent of total retail electric sales in the aggregate by electrical corporations is generated by eligible renewable energy technologies, increasing to eight percent by 2015, and eleven percent generated by eligible renewable energy technologies by 2020. Generation provided by any existing eligible renewable energy technology, owned, controlled, or purchased by electrical corporations, that are operational prior to August 28, 2007, shall be applied towards meeting the objective so long as it continues to generate electricity. Credit towards the objective also may be achieved through energy efficiency that includes electrical corporation and consumer efforts to reduce the consumption of electric energy. After consulting with the department, the commission may establish intermediate goals for the use of renewable energy technologies as part of its rulemaking process.

2. By July 1, 2008, the commission shall, after consultation with the department, adopt rules that integrate into its resource planning rules the renewable energy objective of subsection 1 of this section and the criteria and standards by which it will measure an electrical corporation's efforts to meet that objective to determine whether it is making the required good faith effort. In this rulemaking, the commission shall include criteria and standards that, at a minimum, shall:

- (1) Protect against adverse economic impacts, including the costs of any transmission investments necessary to access eligible renewable energy technologies, on the ratepayers and shareholders;
- (2) Protect against undesirable impacts on the reliability of each electrical corporation's system;
- (3) Consider environmental compliance costs, present and future, of each source being evaluated; and
- (4) Consider technical feasibility, providing for flexibility in meeting the objective in the event electrical corporations are, for good cause shown, unable to meet in aggregate the objective of this section.

3. In its rulemaking under this section, the commission shall provide for a weighted scale of how energy produced by various eligible renewable energy technologies shall count toward an electrical corporation's objective. In establishing this scale, the commission shall consider the attributes of various technologies and fuels and shall establish a system that grants multiple credits toward the objective for those technologies and fuels the commission determines are in the public interest to encourage. The commission may also grant multiple credits toward the objective for generation in the state or procurement of electricity generated in the state that uses an eligible renewable energy technology.

4. The commission shall develop rules as provided in this section in consultation with the department as necessary to implement the requirements of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section and section 393.1020 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

**393.1030. BIENNIAL REPORT REQUIRED, CONTENTS.** — 1. Each electric corporation shall submit to the commission a biennial report by December thirty-first, beginning in 2009, on its plans, activities, and progress with regard to the objective of section 393.1025, demonstrating to the commission that it is making the required good faith effort. The report must be submitted in a format prescribed by the commission, not to exceed fifty pages, and it shall include the following:

- (1) Sufficient data to specify and verify the status of its renewable energy mix relative to the good faith objective;
- (2) Sufficient data to specify and verify the status of the electric corporation's and its customers' energy efficiency efforts relative to the good faith objective;
- (3) Efforts taken to meet the objective;

- (4) Any obstacles encountered or anticipated in meeting the objective; and
- (5) Potential solutions to the obstacles.

2. The commission shall compile the information provided under subsection 1 of this section and biennially report by July first, beginning in 2010, to the governor, the speaker of the house of representatives, the president pro tempore of the senate, the chairs of the committees in the house of representatives and senate with jurisdiction over energy and environment policy issues, and the department as to the progress of electrical corporations in the state in increasing the amount of renewable energy provided to retail customers and increasing energy efficiency, with any recommendations for regulatory or legislative action. In addition, the Missouri director of the department of economic development shall issue a biennial report by July first, beginning in 2010, on the impact of the renewable portfolio standard on the Missouri economy and the director of the department of natural resources shall issue a biennial report by July first, beginning in 2010, on the environmental impact of sections 393.1020 to 393.1040. The biennial reporting requirements under this subsection shall end after July 1, 2022.

**393.1035. OBJECTIVES, ELECTRICITY PRODUCTION TO COUNT TOWARD, WHEN — BLENDING OF FUELS PERMITTED, WHEN.** — 1. Electricity produced by fuel combustion may only count toward an electrical corporation's objectives if the generation facility complies with all federal and state statutes and rules.

2. An electrical corporation may blend or co-fire a fuel listed in subsection 2 of section 393.1020, with other fuels in the generation facility, but only the percentage of electricity that is attributable to a fuel listed in that section can be counted toward an electric corporation's renewable energy objectives.]

Adopted November 4, 2008. (For — 1,777,500; Against — 914,332)  
Effective November 4, 2008.

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